

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

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UNITED STATES OF AMERICA,  
  
Plaintiff,

-vs-

Case No. 5:21-CR-434-M-1

CHRISTOPHER LAMAR BAKER,  
  
Defendant,  
  
and

UNITED STATES OF AMERICA,  
  
Plaintiff,

-vs-

Case No. 5:21-CR-434-M-13

LANDON HOLCOMB,  
  
Defendant.

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PRETRIAL PROCEEDINGS - MOTION HEARING and ARRAIGNMENTS  
SEPTEMBER 12, 2022  
THE HONORABLE CHIEF JUDGE RICHARD E. MYERS II  
UNITED STATES DISTRICT JUDGE

Risa Kramer, RMR, CRR  
Official Court Reporter  
United States District Court  
Wilmington, North Carolina

A P P E A R A N C E S

On Behalf of the Government

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TRANSCRIPT OF PROCEEDINGS

(Proceedings commenced at 9:45 a.m.)

THE COURT: All right. Good morning, counsel. If the clerk would please call the case.

THE CLERK: USA versus Christopher Baker and USA versus Landon Holcomb.

THE COURT: All right. Before we proceed to the scheduled arraignments, we'll have a hearing on the motion to dismiss the fourth superseding indictment to determine whether or not we're gonna so proceed.

Counsel, please state your appearance for the record.

MS. SANDLING: Your Honor, good morning. Kelly Sandling for the government.

MR. DODSON: Good morning, Your Honor. Robert Dodson for the government.

MR. CHETSON: Good morning. Damon Chetson for Mr. Baker.

MS. SALMON: Good morning, Your Honor. Elisa Salmon for Mr. Holcomb.

THE COURT: We're here -- I think, Mr. Chetson, it's your motion. Ms. Salmon, does your client join in Mr. Chetson's motion?

MS. SALMON: Yes, Your Honor, with leave of court.

1                   THE COURT:   Okay.   I'll hear from you,  
2   Mr. Chetson.

3                   MR. CHETSON:   I don't need to be heard  
4   further than what's in the motion, Your Honor.  
5   Obviously that was drafted at the last minute on  
6   Saturday evening, so it's -- very quick motion.   And I  
7   will let the Court know that I referred to other -- you  
8   know, I had to look up the law very quickly and make  
9   that motion.   I don't need to expound further, Your  
10   Honor.   It's late, and that's our issue.

11                  THE COURT:   Okay.   I'll hear from the United  
12   States.

13                  MS. SANDLING:   Your Honor, the government  
14   would ask that Your Honor dismiss or deny that motion.  
15   There's no prejudice to the defendant with the fourth  
16   superseding indictment.   The third superseding  
17   indictment added a new defendant and a new charge  
18   related to the third superseding indictment.

19                  Regarding the fourth superseding indictment,  
20   that was just a clerical error in count 5 upon review of  
21   the evidence in this case, as well as another count  
22   lowered the mandatory minimums as it relates to the  
23   defendant.   And we'd ask that be denied.

24                  MR. CHETSON:   Your Honor, just very briefly,  
25   with respect to the no prejudice issue.   Obviously, to

1 the extent that one of the counts reduces the drug  
2 amounts and therefore lowers the mandatory minimum, that  
3 wouldn't necessarily be prejudice, and that's not my  
4 chief concern. But in any case, to the extent that the  
5 evidence doesn't match the indictment, the Court would  
6 presumably either dismiss that count at the close of  
7 evidence or the government would dismiss the count -- or  
8 not dismiss the count but acknowledge that they had not  
9 met the 50-gram threshold with respect to that  
10 particular count.

11 The prejudice arises with respect to the  
12 count where the government fixes the -- in what they  
13 described in the e-mail to the clerk of -- or the case  
14 manager -- corrects a -- an issue to bring it more in  
15 line with factual matters.

16 And the prejud- -- I mean, it's so late,  
17 Your Honor. We were in court on Wednesday. And in  
18 addition to this, it's not the defense -- it's not just  
19 as if defense counsel is tackling this issue alone. It  
20 is -- obviously, as you come up on trial as a solo  
21 practitioner, with gigabytes or megabytes of discovery  
22 still coming, and a number of productions hit us after  
23 Wednesday, it becomes difficult to prepare.

24 And the indictment should not be a moving  
25 target. The government -- and in response, I think the

1 Fourth Circuit case law indicates that where the Court  
2 were to dismiss with prejudice and not allow a  
3 prosecution, that's where the government would have a  
4 serious contention that this ought not to be dismissed.  
5 But all we're asking is just go back to the indictment  
6 upon which my client was arraigned on Wednesday, which  
7 is the third superseding indictment, and charges all the  
8 same counts.

9 THE COURT: All right. I'm deeply troubled  
10 that this has arrived this late. The case law on late  
11 indictment is -- is not considering this posture. The  
12 question is these are late changes to charges about  
13 which the defendant has had due process notice. I don't  
14 think there's a constitutional violation. I don't  
15 believe there's a Rule 48 violation. There's a  
16 possibility the Court has the authority under its  
17 inherent authority to manage its docket to dismiss the  
18 fourth superseding indictment and proceed on the third.

19 The grand jury has spoken. We do have an  
20 indictment.

21 Mr. Chetson, if you want to continue this  
22 because you feel you are significantly prejudiced in  
23 some way, I will listen to that. The Court -- it is  
24 troubled by the fact that the Court had to respond to  
25 this last minute. I think there were changes to counts

1 1, 5, 6, 7, 8, 12, 13, 14, 16, and 17. Whether or not  
2 the government believes they're substantive, they're  
3 real, and the jury instructions had to be redrafted, the  
4 parties had to stop and look at it and figure out what's  
5 going on and why do we have a fourth superseding  
6 indictment, and that happens eve of trial and after the  
7 pretrial conference. I'm deeply troubled by this.

8 I don't believe it constitutes a  
9 constitutional violation. I don't believe it's a  
10 Rule 48 violation.

11 MR. CHETSON: You do believe it's a --

12 THE COURT: I do not believe it's a Rule 48  
13 violation.

14 The issue of substantive notice, I think the  
15 United States is correct that the defendant has had  
16 substantive notice of the substance of the charges.  
17 I've heard two different things on discovery. I've  
18 heard from the United States that all discovery was  
19 provided before the pretrial conference and that there's  
20 no new discovery. I've heard differently from  
21 Mr. Chetson. Can you explain?

22 MR. CHETSON: Well, I mean, the government  
23 might contend it's not new to the extent that -- for  
24 instance, what I've gotten -- what we've gotten are all  
25 the plea -- or a lot of the plea agreements that were

1 entered into. I got discovery at 10:00 last night, Your  
2 Honor, and those would be plea agreements, proffer  
3 agreements. I'm trying to think about what else was in  
4 there. There have been 11 productions, Your Honor, and  
5 so I'm kind of losing track. And I will say 11  
6 productions, and five or six of those since the  
7 arraignment and two of them, I think, in the last four  
8 days.

9           The government might contend that they're  
10 not new productions in terms of I should know that I'm  
11 going to be getting the plea agreements at some point,  
12 and I've seen a plea agreement before, but those were  
13 all -- a lot of those were produced just last night. So  
14 that's the issue with the production of discovery.

15           I understand the Court's point about there  
16 not being a constitutional violation. I obviously  
17 disagree with the Court with respect to the Rule 48  
18 issue. And so the problem with the lateness of it is --  
19 I will also say that I am trying to be very careful to  
20 protect my client's rights, but I did not meticulously  
21 examine an 18-count indictment as compared to an  
22 indictment that I was arraigned on on Wednesday. And so  
23 I was taking as -- when the government represented that  
24 there were only changes to counts -- I think 5 was one  
25 of the counts and another -- and the possession of the



1    illegal fire- -- or the possession of the firearm that  
2    was nonconforming and therefore not properly registered,  
3    I took that to be true and didn't inquire further. And  
4    part of this is the extreme lateness of the revelation  
5    of the indictment.

6                    And I understand that the government has  
7    certain rules it needs to follow with respect to the  
8    secrecy of the grand jury. But the grand jury -- we got  
9    grand jury transcripts that showed that the grand jury  
10   was meeting here in the morning of September 7th. And  
11   so we were in your courtroom down in Wilmington, Your  
12   Honor, in the afternoon, 2:00, 2:30, and that would  
13   have -- might have been an opportunity to let us know  
14   that the grand jury had met and potentially returned an  
15   indictment.

16                   I mean, I understand that these things --  
17   we're not claiming that they're new counts in there that  
18   therefore put us in a different position with respect to  
19   the overall tenor of the case. I understand what the  
20   case is about. But, you know, I think the Court -- the  
21   pattern of late indictments which I've seen in this  
22   case, including the August indictment, which I did not  
23   complain about but came after the arraignment in late  
24   July, that was concerning to me, the fact that we had  
25   yet another indictment with yet another substantive

1 count because the -- we need to be sure that the client  
2 feels as though and the public has the perception that  
3 this is a fair trial, not a trial by ambush, or a trial  
4 where an indictment's revealed where the government --  
5 government -- enormous amount of resources and enormous  
6 amount of staff that it has can sort of bulldoze a sole  
7 practitioner who's trying to do a thorough job for his  
8 client and puts himself in an awkward position on a  
9 Monday morning after receiving an indictment on Thursday  
10 afternoon or Thursday evening, because I was literally  
11 in my car when I got the notice and doing errands on  
12 part of this case.

13 And that's how most defense counsel are in  
14 this district, and particularly around the country,  
15 simply because most defense counsel are solo  
16 practitioners, given the nature of the way the work --  
17 this work does -- works. So I'm troubled by it, Your  
18 Honor, and I understand why the Court may be troubled by  
19 it, but I'm troubled by it because it suggests a  
20 pattern. And this is not -- and, you know, I'm here  
21 about this case. I'll just talk about the suggested  
22 pattern. And that's a problem.

23 And I'll draw it back to one other issue,  
24 which I know the Court's already denied my motion on.  
25 But the late notice -- and I don't believe the Court's

1 correct on this, but I respect the Court's ruling -- the  
2 late notice with the expert witnesses. Now, with -- I'm  
3 a professional and I understand what this case is about.  
4 This case is about guns and drugs. So I was fully  
5 prepared and I have known since December that there were  
6 gonna be, if we went to trial, witnesses with respect to  
7 the chemical analysis and so forth. I don't complain  
8 about that, Your Honor, because I know that's coming, as  
9 well as the nexus experts. And I understand that this  
10 case has the aura of a gang or a club around it. But  
11 when the government notices it at the last moment, which  
12 is literally the last moment for that to happen, four  
13 days before his pretrial motions hearing, and I have to  
14 scramble on a weekend to write a response and then we  
15 have to have that argument and then we have to try to  
16 search around for an expert of our own to respond, that  
17 puts us in a very difficult position.

18           So not to relitigate that or to bring it  
19 back home to this issue. The government has lots of  
20 folks they can have read their indictments and make sure  
21 that they're perfect before they go before that grand  
22 jury, and I know the government strives to do that. And  
23 I would ask you -- and the government saw fit to have my  
24 client arraigned on the third superseding indictment.  
25 We aren't prejudicing the government, really, at all,

1 but for the government's error in doing this late. You  
2 aren't prejudicing -- I am not asking for a continuance,  
3 to be clear, because I've been adamant that we should  
4 honor the speedy trial -- my client has been adamant  
5 that we should honor the Speedy Trial Act. I am certain  
6 that the government -- well, I don't want to speak for  
7 the government, but a lot of preparation has gone in for  
8 me personally and for my office and for other counsel to  
9 all be here today to try this case, so I want to proceed  
10 today.

11 I also don't think it's appropriate for a  
12 last minute indictment to then force the defense into a  
13 continuance because all you're doing -- as a practical  
14 matter, Your Honor, you can then use the speedy -- you  
15 can use your indictment powers to just drive back the  
16 speedy trial calendar. And I understand that Courts are  
17 gonna be very reluctant in very serious cases, which are  
18 almost all what we do in federal court, to just bar the  
19 government from prosecuting that individual.

20 So this would be a reminder -- it would help  
21 us to preserve the fairness of the trial here and would  
22 be a reminder to the government to make sure its  
23 indictments are filed at an early enough stage so that  
24 the, generally, solo practitioner nature of the defense  
25 bar that handles CJA cases, which I do a lot of, and

1 private counsel cases are able to prepare adequately.

2 Thank you.

3 THE COURT: Ms. Sandling, will you please  
4 make your record on the prejudice that would exist to  
5 the United States if the Court were to dismiss the  
6 fourth superseding indictment without prejudice and  
7 permit you to proceed on the third?

8 MS. SANDLING: Yes, Your Honor.

9 To speak to Mr. Chetson's statements, Your  
10 Honor, it is not uncommon for the government to  
11 supersede its indictment to correct issues in an  
12 indictment prior to trial. Mr. Chetson was informed  
13 literally from the first day that he entered notice in  
14 this case that the government's intent was to RICO and  
15 VICAR this case. The government is not finished with  
16 this case related to this defendant and other unindicted  
17 defendants in this case at this time.

18 The government was working towards a RICO  
19 when Mr. Baker stopped cooperating and then decided that  
20 he wanted a speedy trial, which the government has  
21 prepared for. But at the same time, there were other  
22 defendants yet to be indicted that had not been indicted  
23 in this case that the government's intent all along was  
24 to indict but had to do so faster than the government's  
25 intent originally in this case but for him pleading not

1 guilty and invoking his speedy trial rights.

2           There has not been any new discovery related  
3 to the NFA count, Your Honor. There was an evidence  
4 review on Thursday that Mr. Chetson and Ms. Salmon  
5 attended at the ATF office. Mr. Dodson was at that  
6 evidence review because I was preparing a codefendant --  
7 a testifying witness in this case and could not do that  
8 and be at the evidence review.

9           At that evidence review, Mr. Chetson and  
10 Ms. Salmon looked at the evidence. Shortly after that  
11 evidence review was over, the notice of a true bill of  
12 indictment was noticed over ECF which is why the  
13 government did not inform the Court on Wednesday,  
14 because we did not yet have a true bill of indictment.

15           Mr. Chetson then called Mr. Dodson right  
16 after receiving notice of the indictment and said: Are  
17 there any new changes to the indictment as it relates to  
18 my client? Mr. Dodson informed Mr. Chetson about the  
19 NFA count and reducing the mandatory minimum, and  
20 Mr. Chetson said: Okay, thanks. And that was the end  
21 of the conversation. There was no verbalized  
22 conversation at that moment where Mr. Chetson says, "I  
23 can't be ready." The only thing that was articulated  
24 was "Okay," and then the conversation ended.

25           The government, Your Honor, needed to

1 correct that upon review of the firearm, and it  
2 originally had alleged less than 26 total inches and now  
3 alleges less than 18. There's nothing that's changed in  
4 the discovery regarding that.

5 THE COURT: That's a substantive difference.  
6 If the firearm is more than 26 inches, it's more than 26  
7 inches, and that is a significant substantive change in  
8 the basis for the underlying indictment. If it is less  
9 than 26 inches, we can proceed on the less than 26  
10 inches. If it's an issue of the barrels, that's a  
11 different substantive basis for an NFA count.

12 MS. SANDLING: And I understand that, Your  
13 Honor, but the evidence has been able to be reviewed by  
14 Mr. Chetson --

15 THE COURT: But he wasn't charged with it.

16 MS. SANDLING: He was charged with the NFA  
17 count. He's always been charged with the NFA count.  
18 That hasn't changed since originally the first  
19 indictment in this case.

20 THE COURT: Then you're prepared to proceed  
21 on 26 inches?

22 MS. SANDLING: No, Your Honor. The  
23 government would be prepared to proceed on the fourth  
24 superseding indictment because the barrel is less than  
25 18 inches.

1           THE COURT: I'm asking you if you are  
2 prepared to -- are you prepared to proceed on 26 inches?  
3 This is a late indictment with a significant substantive  
4 change on a count that has a very significant penalty  
5 for this defendant. I'm very concerned about this.

6           MS. SANDLING: The government -- that is  
7 incorrect, Your Honor, regarding what the total length  
8 of the barrel is, and so that would not be factually  
9 correct.

10          THE COURT: All right. I'm gonna permit the  
11 conforming amendments that are in the fourth superseding  
12 indictment except for the NFA count. I believe that to  
13 be a substantive change, and I believe it to be a late  
14 arriving substantive change and the kind that has the  
15 potential to prejudice this defendant because it is a  
16 different substantive basis for the charge that  
17 constitutes an NFA violation.

18          MR. CHETSON: May I be heard, Your Honor?

19                 And just to be clear, if -- I'm gonna look  
20 through the -- because the Court noted additional  
21 changes. And I -- I'll be -- I'm not here to -- this is  
22 the issue with getting a late indictment. This is  
23 precisely the issue, is that I come in here and look  
24 unprepared, and I understand that looks bad for this  
25 Court, but there's a lot going on in this case. And I'm



1 just reminding the Court that I'm not trying to complain  
2 about the fact that I chose to go into this profession  
3 and be a solo practitioner, but that's the raw reality  
4 of it. And in order for my client to have a sound  
5 defense and be prepared for trial, he needs to be sure  
6 that his attorney is prepared, and he may have some  
7 concerns about at this stage.

8 But in any case, that's why I'm asking to go  
9 back to the third indictment. And so I want to be sure,  
10 if I look over our break at this indictment and there  
11 are other issues in the fourth superseding indictment  
12 that turn out to be substantive or impinging my client's  
13 rights, that I'm allowed to raise that issue.

14 If you were to dismiss -- or if you were to  
15 force the government to proceed on the third superseding  
16 indictment, that doesn't mean that the fourth  
17 superseding indictment would be dismissed as to any  
18 other defendants that they wanted to go after. And if  
19 that's the purpose behind the indictment, then that  
20 survives for all remaining defendants. But it  
21 obviously -- the fourth superseding indictment wouldn't  
22 survive for this defendant, and it doesn't survive for  
23 all the folks that have pled guilty already. They can't  
24 be, you know, charged under the fourth superseding  
25 indictment. So that's why I would ask you to go back to

1 the third superseding indictment.

2 In addition -- and I'm gonna make this  
3 point, and understand it's done respectfully -- but the  
4 government has been saying for some period of time about  
5 VICAR and RICO, and what I heard from the government in  
6 its statement to the Court is concerning. First is that  
7 if the government can't speak about this indictment  
8 prior to it coming out, which I understand is the rule,  
9 then telling me about all the indictments it wants to  
10 file prospectively in the future months ago seems to cut  
11 against that argument, especially when this indictment  
12 came out on Wednesday morning.

13 And obviously we have this pall over the  
14 cases -- idea of VICAR and RICO. Well, the government  
15 has enormous power. It can go charge VICAR and RICO.

16 Next is that the government's suggestion  
17 seemed to me that by exercising his right to go to trial  
18 against the United States government, that it was  
19 somehow the defendant's fault for not dragging this case  
20 out longer to give the government time to RICO and VICAR  
21 him. That's the government's rhetorical position.  
22 That's very problematic because a citizen or a person in  
23 this country has the right to demand a trial. And the  
24 exercise of the speedy trial rights is sacrosanct. It's  
25 actually one of the few rights that a defendant has in a

1 federal courtroom which really puts the government to  
2 the test.

3 And so I find those statements a little bit  
4 concerning because it's almost as if it's my fault, I  
5 should have known that it was VICAR and RICO coming and  
6 a fourth superseding indictment, and therefore I should  
7 be the one that's sort of to blame for this.

8 Finally, I have always had very cordial  
9 relationship with both government prosecutors. When I  
10 was in my car running an errand for this case, I got the  
11 notice on my iPhone and, you know, had that heart stop  
12 issue, and so called Mr. Dodson -- and I respect  
13 Mr. Dodson, and it was a cordial phone call. But it is  
14 no -- by no means meant to give up my client's rights,  
15 and I -- I don't think that I should have, you know,  
16 litigated the issue on the phone with him. I should  
17 litigate the issue in the courtroom with Your Honor.

18 So that cordial phone call -- and I will  
19 remain cordial throughout this even though passions can  
20 get high -- but that cordial phone call about: Okay,  
21 thanks, I'm glad there's not another count because I  
22 don't -- I've been preparing for weeks, and I pushed off  
23 other trials for this. So I'm asking Your Honor to deny  
24 the government's motion to allow this Fourth Circuit --  
25 or the fourth superseding to move forward.

1           THE COURT: The reduction from 50 to 5  
2 milligrams on methamphetamine, the Court considers that  
3 to be a lesser included. The changed basis for the NFA,  
4 the Court considers that to be a late arriving notice  
5 and substantive change. The defendant has a right to a  
6 speedy trial in this case. I'm deeply concerned with --  
7 I'm deeply concerned with this material arriving late.  
8 And Rule 6(e) does not -- the fact the grand jury is  
9 secret does not mean the United States does not control  
10 what it takes before the grand jury at that time.

11           I understand what's happened here. But it  
12 is deeply concerning that this is arriving after the  
13 pretrial conference, after jury instructions have been  
14 exchanged, after the opportunity to get an expert is  
15 complete, and then this change arrives. That's just not  
16 how this is supposed to work in a trial where we do  
17 these things public. We have a Speedy Trial Act. We  
18 have the Sixth Amendment to the Constitution of the  
19 United States, and those things are designed to give the  
20 defendant a right to have his full notice and an  
21 opportunity to try the case squarely on the issues  
22 before him.

23           I understand that in the process of working  
24 through an immensely complex case, things change. I  
25 understand that. This is, as these things go,

1     incredibly late.

2                 The Court's been through all the Fourth  
3     Circuit case law on late arriving changes that conform  
4     to the evidence, that evidence has been previously  
5     noticed. I believe the NFA change to be a substantive  
6     change. The NFA charge is dismissed without prejudice  
7     as to the fourth superseding indictment. If the United  
8     States chooses to dismiss as to the third superseding  
9     indictment now, I believe that -- and I will dismiss  
10    without prejudice. I think the Fourth Circuit frowns  
11    deeply on me dismissing with prejudice for a  
12    nonconstitutional violation at this time. I would  
13    dismiss the NFA count in the third superseding  
14    indictment and the fourth superseding indictment if the  
15    government so requests. We have not yet impaneled a  
16    jury. Jeopardy has not yet attached. Future litigation  
17    in this case is possible, and a return to the grand jury  
18    is possible unless it is so substantively intertwined  
19    that we have a double jeopardy problem. I don't know.

20                All right. I'll hear from the United  
21    States. What's your position on the NFA count?

22                   MS. SANDLING: Your Honor, may we have a  
23    minute?

24                   THE COURT: You may.

25                   (Discussion off the record.)

1 MS. SANDLING: Your Honor, the state will  
2 take a dismissal on the NFA count.

3 THE COURT: All right. The NFA count --

4 MS. SANDLING: Or the government. Excuse  
5 me.

6 THE COURT: The government takes a dismissal  
7 on the NFA count related to the short-barrel shotgun.  
8 That is dismissed as to both the third and fourth  
9 superseding indictments. That is a dismissal without  
10 prejudice. We will proceed without that count as part  
11 of this trial.

12 The Court cautions the parties now regarding  
13 double jeopardy issues that may attach to the possession  
14 of that NFA firearm in connection with it being an NFA  
15 firearm, in connection with the drug trafficking count.  
16 It may have been possessed at another time. There may  
17 be plenty of evidence that -- at another time and in  
18 another place that would not implicate double jeopardy.  
19 I'm just putting it on the record that there is a double  
20 jeopardy concern in the Court's mind regarding the  
21 possession on the date at the time of the sale.

22 I will also note for the parties that a  
23 conviction on the underlying substantive drug count has  
24 the potential of having some of that come back without  
25 mandatory minimums and without all the other NFA

1 application at sentencing. So a dismissal of the count  
2 does not dismiss all of the potential implications of  
3 the possession of that firearm.

4 We'll go forward on the fourth superseding  
5 indictment. We'll dismiss the third and fourth  
6 superseding indictment as to the NFA count, which is  
7 count 5.

8 And, Mr. Chetson, I understand all the  
9 arguments that you've made. The other counts that the  
10 Court has looked at -- and again, I'm troubled that in  
11 the middle of your trial preparation at this late date  
12 you're having to deal with this instead of being  
13 prepared for your substantive charges. I understand it.  
14 The remedy for that would be continuance, and the  
15 defense is not requesting a continuance at this time.

16 MR. CHETSON: No, Your Honor.

17 THE COURT: All right. The remaining  
18 changes, one would be to reduce from 50 to 5 milligrams  
19 of methamphetamine. That would be a lesser included  
20 offense, and the government would be able to get a  
21 lesser included offense instruction regarding a smaller  
22 amount of methamphetamine. Having charged 50, it could  
23 prove 5 and convict on 5.

24 The remaining changes exist. They exist to  
25 the point where the Court will enter a new arraignment,

1 but they are nonsubstantive, they are procedural or  
2 technical regarding names and names of codefendants.

3 Judge Britt is a shorter man than I am. My  
4 feet don't have room under his bench.

5 All right. Do the parties want five minutes  
6 before we proceed to arraignment, or can we proceed to  
7 arraignment on the fourth superseding indictment?

8 MR. CHETSON: We can proceed, Your Honor.  
9 My copy of the fourth superseding is in the conference  
10 room. I showed it to my client. If I can go to the  
11 conference room real quick to get it, would that be  
12 okay? Thank you.

13 THE COURT: Yeah. We'll take a five-minute  
14 recess and then return.

15 (Proceedings recessed at 10:15 a.m.)

16 (Proceedings recommenced at 10:19 a.m.)

17 THE COURT: All right. We'll proceed to  
18 arraignment at this time. We'll start with --

19 MR. CHETSON: Your Honor, Ms. Salmon's...

20 THE COURT: Okay. At this point,  
21 technically, I think we're calling just your case.

22 MR. CHETSON: Okay. That's fine, Your  
23 Honor.

24 THE COURT: But thank you.

25 MR. CHETSON: Okay.



1           THE COURT: It's quite all right. It's  
2 quite all right. We can wait for her to come back  
3 and --

4           MR. CHETSON: No, that's fine.

5           THE COURT: All right. So we'll proceed in  
6 the arraignment in Mr. Baker's case first.

7           MR. CHETSON: Thank you, Your Honor.

8           THE COURT: If the clerk would please call  
9 the case.

10          THE CLERK: USA versus Christopher Baker.

11          THE COURT: Counsel, please state your  
12 appearance for the record.

13          MR. CHETSON: Damon Chetson for the  
14 defendant, Mr. Baker.

15          MS. SANDLING: Kelly Sandling for the  
16 government.

17          MR. DODSON: Robert Dodson for the  
18 government.

19          THE COURT: All right. Mr. Chetson, your  
20 client prepared to enter a plea to the fourth  
21 superseding indictment notwithstanding your preserved  
22 objection?

23          MR. CHETSON: Yes, Your Honor.

24          THE COURT: Good morning, Mr. Baker.

25          DEFENDANT BAKER: Good morning.

1           THE COURT:   If the clerk would please  
2 administer the oath.

3           THE CLERK:   Raise your right hand, left hand  
4 on the Bible.   Is there one right there?

5           Raise your right hand, left hand on the  
6 Bible.   Please state your name for the record.

7           DEFENDANT BAKER:   Christopher Baker.

8           (The defendant was placed under oath.)

9           THE COURT:   Mr. Baker, do you understand  
10 you're now under oath, and if you do not answer my  
11 questions truthfully, the United States may use your  
12 answers against you in another prosecution for perjury  
13 or for making false statements?

14          DEFENDANT BAKER:   Yes, sir.

15          THE COURT:   Before accepting your plea of  
16 either guilty or not guilty, there are a number of  
17 questions that I must ask you and a number of things  
18 that I must tell you.   It's important you fully  
19 understand my questions and statements.   If you don't  
20 understand me at any time, I'm happy to repeat myself.  
21 Please say so.   You may confer with your lawyer before  
22 answering any of my questions.

23          How old are you, sir?

24          DEFENDANT BAKER:   Sir?

25          THE COURT:   How old are you?

1                   DEFENDANT BAKER: 48.

2                   THE COURT: How far did you go in school?

3                   DEFENDANT BAKER: GED.

4                   THE COURT: Do you speak and understand  
5 English?

6                   DEFENDANT BAKER: Yes, sir.

7                   THE COURT: Do you read and write in  
8 English?

9                   DEFENDANT BAKER: Yes, sir.

10                  THE COURT: Do you have any illness or  
11 condition that affects your ability to hear and  
12 understand these proceedings today?

13                  DEFENDANT BAKER: No, sir.

14                  THE COURT: Have you taken any drugs,  
15 medicine, pills, or drunk any alcohol within the last 24  
16 hours?

17                  DEFENDANT BAKER: Blood pressure medicine.

18                  THE COURT: Does that blood pressure  
19 medicine affect you today in any way?

20                  DEFENDANT BAKER: No, sir.

21                  THE COURT: Mr. Chetson, do you have any  
22 doubt as to your client's competence at this time?

23                  MR. CHETSON: No, Your Honor.

24                  THE COURT: Ms. Sandling, does the United  
25 States have any such doubt?

1 MS. SANDLING: No, Your Honor.

2 THE COURT: Based on this Court's questions  
3 and the defendant's and counsel's answers, this Court  
4 finds that the defendant is competent to enter a plea  
5 today.

6 Mr. Baker, you were arraigned on the second  
7 superseding indictment on July 26th, 2022, and on the  
8 third superseding indictment on September 7th, 2022, and  
9 you pleaded not guilty to all charges at those times.  
10 Do the pleas to the unchanged counts still stand?

11 DEFENDANT BAKER: Yes, sir.

12 THE COURT: Have you received a copy of the  
13 fourth superseding indictment?

14 DEFENDANT BAKER: Yes, sir.

15 THE COURT: Have you had a chance to discuss  
16 the fourth superseding indictment and your case with  
17 your lawyer?

18 DEFENDANT BAKER: Yes, sir.

19 THE COURT: Have you had the conversations  
20 with him that you need?

21 DEFENDANT BAKER: Yes, sir.

22 THE COURT: Are you fully satisfied with  
23 your lawyer's legal services in your case?

24 DEFENDANT BAKER: Yes, sir.

25 THE COURT: We had an arraignment in this

1 case last week at which I advised you of your rights.  
2 Do you need me to repeat those rights to you at this  
3 time?

4 DEFENDANT BAKER: No, sir.

5 THE COURT: All right. Do you waive me  
6 reading the fourth superseding indictment aloud at this  
7 time for notice?

8 DEFENDANT BAKER: Yes, sir.

9 THE COURT: All right. The penalties as to  
10 counts 1, 8, 6, 7, 13, and 16, I believe, remain the  
11 same. Which count have we changed? The -- 13? 10.

12 THE LAW CLERK: No, 6.

13 THE COURT: Count 6? All right. Count 6 is  
14 the one where we've changed the charge to distribution  
15 of 5 grams or more of methamphetamine, a Schedule II  
16 controlled substance and aiding and abetting from 50  
17 grams.

18 That substantive change reduces the maximum  
19 -- or the mandatory minimum penalties. It becomes at  
20 that point not less than five years and not more than 40  
21 years imprisonment, a fine not to exceed \$5 million, or  
22 both such fine and imprisonment; not less than four  
23 years and not more than life on supervised release; not  
24 more than three years of imprisonment upon revocation of  
25 supervised release; a 100-dollar special assessment; and

1     restitution, if applicable.

2             The Court has exercised its authority over  
3     management of this case to dismiss the fourth  
4     superseding indictment as to count 5 without prejudice.  
5     This has led the United States in its discretion to  
6     dismiss count 5 without prejudice. Those dismissals are  
7     without prejudice.

8             Mr. Baker, have you answered all of my  
9     questions truthfully today?

10            DEFENDANT BAKER: Yes, sir.

11            THE COURT: I'm now going to read the  
12     charges and ask you how you plead.

13            Actually, before we proceed, do you need any  
14     further explanation regarding the penalties from your  
15     lawyer, an opportunity to discuss them at this time?

16            DEFENDANT BAKER: No, sir.

17            THE COURT: All right. In count 1 of the  
18     indictment, the grand jury charges that beginning on a  
19     date unknown to the grand jury, but no later than in or  
20     about October 2020, and continuing up to and including  
21     on or about November 17th, 2021, in the Eastern District  
22     of North Carolina and elsewhere, the defendants,  
23     Christopher Lamar Baker, Elizabeth Anne Young, also  
24     known as Piper, Kara Hernandez, Lanny Ray Bentley,  
25     Angela Bowman, also known as Boo Boo, Ted Wesley Cannon,

1 also known as Bam, Amber Cross, Houston Phillips, Kevin  
2 Roberson, Landon Holcomb, also known as Jabber, Dustin  
3 Travis, and Ashley Elizabeth Hall, did knowingly and  
4 intentionally combine, conspire, confederate, agree, and  
5 have a tacit understanding with each other and other  
6 persons, known and unknown to the grand jury, to  
7 knowingly and intentionally distribute and possess with  
8 the intent to distribute methamphetamine, in violation  
9 of Title 21, United States Code, Section 841(a)(1).

10 With respect to Kara Hernandez -- quantity  
11 of controlled substances involved in the conspiracy.  
12 With respect to Kara Hernandez, Lanny Ray Bentley,  
13 Angela Bowman, also known as Boo Boo, and Ted Wesley  
14 Cannon, also known as Bam, and Ashley Elizabeth Hall,  
15 the amounts involved in the conspiracy attributable to  
16 them as a result of their own conduct and the conduct of  
17 other conspirators reasonably foreseeable to them, are  
18 500 grams or more of a mixture or substance containing a  
19 detectable amount of methamphetamine, a Schedule II  
20 controlled substance, in violation of Title 21, United  
21 States Code, Section 841(b)(1)(A).

22 With respect to Christopher Lamar Baker,  
23 Elizabeth Anne Young, also known as Piper, Amber Cross,  
24 Houston Phillips, Kevin Roberson, Landon Holcomb, also  
25 known as Jabber, and Dustin Travis, the amounts involved

1 in the conspiracy attributable to them as a result of  
2 their own conduct and the conduct of other conspirators  
3 reasonably foreseeable to them, are 50 grams or more of  
4 methamphetamine, a Schedule II controlled substance, in  
5 violation of Title 21, United States Code, Section  
6 841(b)(1)(A), all in violation of Title 21, United  
7 States Code, Section 846.

8 How do you now plead to count 1?

9 DEFENDANT BAKER: Not guilty.

10 THE COURT: In count 5 of the fourth  
11 superseding indictment, the grand jury charges that on  
12 or about June 4th, 2021 -- I'm sorry. Count 5 has been  
13 dismissed. Thank you.

14 In count 6 of the fourth superseding  
15 indictment, the grand jury charges that on or about  
16 October 16th, 2020, in the Eastern District of North  
17 Carolina, the defendants, Christopher Lamar Baker and  
18 Amber Cross, aiding and abetting each other, did  
19 knowingly and intentionally distribute 5 grams or more  
20 of methamphetamine, a Schedule II controlled substance,  
21 in violation of Title 21, United States Code, Section  
22 841(a)(1) and Title 18, United States Code, Section 2.

23 How do you now plead to count 6?

24 DEFENDANT BAKER: Not guilty.

25 THE COURT: In count 7 of the fourth



1 superseding indictment, the grand jury charges that on  
2 or about October 30th, 2020, in the Eastern District of  
3 North Carolina, the defendants, Christopher Lamar Baker  
4 and Kevin Roberson, aiding and abetting each other, did  
5 knowingly and intentionally distribute 5 grams or more  
6 of methamphetamine, a Schedule II controlled substance,  
7 in violation of Title 21, United States Code, Section  
8 841(a)(1) and Title 18, United States Code, Section 2.

9 How do you now plead to count 7?

10 DEFENDANT BAKER: Not guilty.

11 THE COURT: In count 8 of the fourth  
12 superseding indictment, the grand jury charges that on  
13 or about November 6th, 2020, in the Eastern District of  
14 North Carolina, the defendants, Christopher Lamar Baker  
15 and Landon Holcomb, also known as Jabber, aiding and  
16 abetting each other, did knowingly and intentionally  
17 distribute 50 grams or more of methamphetamine, a  
18 Schedule II controlled substance, in violation of Title  
19 21, United States Code, Section 841(a)(1) and Title 18,  
20 United States Code, Section 2.

21 How do you now plead to count 8?

22 DEFENDANT BAKER: Not guilty.

23 THE COURT: In count 12 of the fourth  
24 superseding indictment, the grand jury charges that on  
25 or about February 18th, 2021, in the Eastern District of

1 North Carolina, the defendant, Christopher Lamar Baker,  
2 aiding and abetting another, did knowingly and  
3 intentionally distribute 50 grams or more of a mixture  
4 and substance containing methamphetamine, a Schedule II  
5 controlled substance, in violation of Title 21, United  
6 States Code, Section 841(a)(1) and Title 18, United  
7 States Code, Section 2.

8 How do you now plead to count 12?

9 DEFENDANT BAKER: Not guilty.

10 THE COURT: In count 17 of the fourth  
11 superseding indictment, the grand jury charges that on  
12 or about November 5th, 2021, in the Eastern District of  
13 North Carolina, the defendant, Christopher Lamar Baker,  
14 aiding and abetting another, did knowingly possess a  
15 firearm, to include a machine gun, in violation of a  
16 drug trafficking crime for which he may be prosecuted in  
17 a court of the United States, as charged in count 16 of  
18 this indictment, in violation of Title 18, United States  
19 Code, Section 924(c)(1)(B)(ii) and Title 18, United  
20 States Code, Section 2.

21 How do you now plead to count 17?

22 DEFENDANT BAKER: Not guilty.

23 THE COURT: This matter will proceed to  
24 trial after the next arraignment.

25 (Discussion off the record between the Court

1 and the law clerk.)

2 THE COURT: In count 13 of the fourth  
3 superseding indictment, the grand jury charges that on  
4 or about February 27th, 2021, in the Eastern District of  
5 North Carolina, the defendant, Christopher Lamar Baker,  
6 aiding and abetting another, did knowingly and  
7 intentionally distribute 5 grams or more of  
8 methamphetamine, a Schedule II controlled substance, in  
9 violation of Title 21, United States Code, Section  
10 841(a)(1) and Title 18, United States Code, Section 2.

11 How do you now plead to count 13?

12 DEFENDANT BAKER: Not guilty.

13 THE COURT: All right. In count 14 of the  
14 fourth superseding indictment, the grand jury charges  
15 that on or about February 27th, 2021, in the Eastern  
16 District of North Carolina, the defendant, Christopher  
17 Lamar Baker, aiding and abetting another, did knowingly  
18 possess a firearm in furtherance of a drug trafficking  
19 crime for which he may be prosecuted in a court of the  
20 United States, as charged in count 13 of this  
21 indictment, in violation of Title 18, United States  
22 Code, Section 924(c)(1)(A) and Title 18, United States  
23 Code, Section 2.

24 How do you now plead to count 14?

25 DEFENDANT BAKER: Not guilty.

1           THE COURT: In count 16 of the fourth  
2       superseding indictment, the grand jury charges that on  
3       or about November 5th, 2021, in the Eastern District of  
4       North Carolina, the defendants, Christopher Lamar Baker,  
5       aiding and abetting another, did knowingly and  
6       intentionally distribute 50 grams or more of  
7       methamphetamine, a Schedule II controlled substance, in  
8       violation of Title 21, United States Code, Section  
9       841(a)(1) and Title 18, United States Code, Section 2.

10           How do you now plead to count 16?

11           DEFENDANT BAKER: Not guilty.

12           THE COURT: I'm sorry. I had a page stick  
13       together to one before it. Kristina, have we covered  
14       all of them?

15           THE LAW CLERK: Yes.

16           THE COURT: Thank you. All right. We will  
17       now proceed to arraignment in the case of United States  
18       of America versus Landon Holcomb. If the clerk would  
19       please call the case.

20           THE CLERK: USA versus Landon Holcomb.

21           THE COURT: Counsel, please state your  
22       appearance for the record.

23           MS. SALMON: Good morning, Your Honor.  
24       Elisa Salmon for Landon Holcomb.

25           MS. SANDLING: Good morning, Your Honor.

1 Kelly Sandling for the government.

2 MR. DODSON: Robert Dodson for the  
3 government, Your Honor.

4 THE COURT: Ms. Salmon, is your client  
5 prepared to enter his plea today?

6 MS. SALMON: Yes, Your Honor.

7 THE COURT: Good morning, Mr. Holcomb.

8 DEFENDANT HOLCOMB: Good morning, Your  
9 Honor.

10 THE COURT: If the clerk would administer  
11 the oath.

12 THE CLERK: Raise your right hand, left hand  
13 on the Bible, and please state your name for the record.

14 DEFENDANT HOLCOMB: Landon Holcomb.

15 (The defendant was placed under oath.)

16 THE COURT: Mr. Holcomb, do you understand  
17 you're now under oath, and if you do not answer my  
18 questions truthfully, the United States may use your  
19 answers against you in another prosecution for perjury  
20 or for making false statements?

21 DEFENDANT HOLCOMB: Yes, Your Honor.

22 THE COURT: Before accepting your plea of  
23 either guilty or not guilty, there are a number of  
24 questions that I must ask you and a number of things  
25 that I must tell you. It's important you fully

1 understand my questions and statements. If you don't  
2 understand me at any time, please say so. I'm happy to  
3 repeat anything, and you may confer with your lawyer  
4 before answering any of my questions.

5 How old are you, sir?

6 DEFENDANT HOLCOMB: 28, Your Honor.

7 THE COURT: How far did you go in school?

8 DEFENDANT HOLCOMB: High school.

9 THE COURT: Do you speak and understand  
10 English?

11 DEFENDANT HOLCOMB: Yes, Your Honor.

12 THE COURT: Do you read and write in  
13 English?

14 DEFENDANT HOLCOMB: Yes, Your Honor.

15 THE COURT: Do you have any illness or  
16 condition that affects your ability to hear and  
17 understand these proceedings today?

18 DEFENDANT HOLCOMB: No, Your Honor.

19 THE COURT: Have you taken any drugs,  
20 medicine, pills, or drunk any alcohol within the last 24  
21 hours?

22 DEFENDANT HOLCOMB: No, Your Honor.

23 THE COURT: Ms. Salmon, do you have any  
24 doubt as to your client's competence to plead at this  
25 time?

1 MS. SALMON: No, sir.

2 THE COURT: Ms. Sandling, does the United  
3 States have any such doubt?

4 MS. SANDLING: No, Your Honor.

5 THE COURT: Based on this Court's questions  
6 and the defendant's and counsel's answers, this Court  
7 finds that the defendant is competent to enter a plea  
8 today.

9 Mr. Holcomb, you were arraigned on the third  
10 superseding indictment on August 24th, 2022, and you  
11 pleaded not guilty to all charges at those times. Do  
12 those pleas still stand?

13 DEFENDANT HOLCOMB: Yes, Your Honor.

14 THE COURT: Have you received a copy of the  
15 fourth superseding indictment?

16 DEFENDANT HOLCOMB: Yes, Your Honor.

17 THE COURT: Have you had an adequate  
18 opportunity to discuss the fourth superseding indictment  
19 and your case with your lawyer?

20 DEFENDANT HOLCOMB: Yes, Your Honor.

21 THE COURT: Have you had all the  
22 conversation with her that you need?

23 DEFENDANT HOLCOMB: Yes, Your Honor.

24 THE COURT: Are you fully satisfied with  
25 your lawyer's legal services in your case?

1                   DEFENDANT HOLCOMB:   Yes, Your Honor.

2                   THE COURT:   At your arraignment on the third  
3   superseding indictment, I discussed your rights with  
4   you.  Do you need me to discuss those rights again, or  
5   do you remember them?

6                   DEFENDANT HOLCOMB:   I remember them, Your  
7   Honor.

8                   THE COURT:   All right.  Do you waive me  
9   reading aloud the fourth superseding indictment at this  
10  time?

11                  DEFENDANT HOLCOMB:   Yes, Your Honor.

12                  THE COURT:   Mr. Holcomb, have you answered  
13  all my questions truthfully today?

14                  DEFENDANT HOLCOMB:   Yes, Your Honor.

15                  THE COURT:   I'm now going to read the  
16  charges and ask you how you plead.

17                  In count 1 of the fourth superseding  
18  indictment, the grand jury charges that beginning on a  
19  date unknown to the grand jury, but no later than in or  
20  about October 2020, and continuing up to and including  
21  on or about November 17th, 2021, in the Eastern District  
22  of North Carolina and elsewhere, the defendants,  
23  Christopher Lamar Baker, Elizabeth Anne Young, also  
24  known as Piper, Kara Hernandez, Lanny Ray Bentley,  
25  Angela Bowman, also known as Boo Boo, Ted Wesley Cannon,



1 also known as Bam, Amber Cross, Houston Phillips, Kevin  
2 Roberson, Landon Holcomb, also known as Jabber, Dustin  
3 Travis, and Ashley Elizabeth Hall, did knowingly and  
4 intentionally combine, conspire, confederate, agree, and  
5 have a tacit understanding with each other and other  
6 persons, known and unknown to the grand jury, to  
7 knowingly and intentionally distribute and possess with  
8 the intent to distribute methamphetamine, in violation  
9 of Title 21, United States Code, Section 841(a)(1).

10 Quantity of controlled substances involved  
11 in the conspiracy. With respect to Kara Hernandez,  
12 Lanny Ray Bentley, Angela Bowman, also known as Boo Boo,  
13 and Ted Wesley Cannon, also known as Bam, and Ashley  
14 Elizabeth Hall, the amounts involved in the conspiracy  
15 attributable to them as a result of their own conduct  
16 and the conduct of other conspirators reasonably  
17 foreseeable to them are 500 grams or more of a mixture  
18 or substance containing a detectable amount of  
19 methamphetamine, a Schedule II controlled substance, in  
20 violation of Title 21, United States Code, Section  
21 841(b)(1)(A).

22 With respect to Christopher Lamar Baker,  
23 Elizabeth Anne Young, also known as Piper, Amber Cross,  
24 Houston Phillips, Kevin Roberson, Landon Holcomb, also  
25 known as Jabber, and Dustin Travis, the amounts involved

1 in the conspiracy attributable to them as a result of  
2 their own conduct and the conduct of other conspirators  
3 reasonably foreseeable to them are 50 grams or more of  
4 methamphetamine, a Schedule II controlled substance, in  
5 violation of Title 21, United States Code, Section  
6 841(b)(1)(A), all in violation of Title 21, United  
7 States Code, Section 846.

8 How do you now plead to count 1?

9 DEFENDANT HOLCOMB: Not guilty.

10 THE COURT: For the record, the penalties  
11 for violation of count 1 are not less than ten years and  
12 not more than life imprisonment, a fine not to exceed  
13 \$10 million, or both such fine and imprisonment; not  
14 less than five years and not more than life on  
15 supervised release; not more than five years of  
16 imprisonment upon revocation of supervised release; a  
17 100-dollar special assessment; and restitution, if  
18 applicable.

19 Those penalties have not changed between the  
20 third and fourth superseding indictment.

21 You've also been charged in changed count 8  
22 in the fourth superseding indictment with distribution  
23 of 50 grams or more of methamphetamine, a Schedule II  
24 controlled substance, and aiding and abetting. The  
25 penalties for that charge are not less than ten years

1 and not more than life imprisonment, a fine not to  
2 exceed \$10 million, or both such fine and imprisonment;  
3 not less than five years and not more than life on  
4 supervised release; not more than five years of  
5 imprisonment upon revocation of supervised release; a  
6 100-dollar special assessment; and restitution, if  
7 applicable.

8 In count 8 of the fourth superseding  
9 indictment, the grand jury charges that on or about  
10 November 6th, 2020, in the Eastern District of North  
11 Carolina, the defendants, Christopher Lamar Baker and  
12 Landon Holcomb, also known as Jabber, aiding and  
13 abetting each other, did knowingly and intentionally  
14 distribute 50 grams or more of methamphetamine, a  
15 Schedule II controlled substance, in violation of  
16 Title 21, United States Code, Section 841(a)(1) and  
17 Title 18, United States Code, Section 2.

18 How do you now plead to count 8?

19 DEFENDANT HOLCOMB: Not guilty.

20 THE COURT: All right. This matter will now  
21 proceed to trial.

22 If the clerk would please call the case, and  
23 then we will wait for the arrival of the jury.

24 THE CLERK: USA versus Christopher Baker and  
25 USA versus Landon Holcomb.

1           THE COURT: Counsel, please state your  
2 appearance for the record.

3           MR. CHETSON: Damon Chetson for Mr. Baker,  
4 Your Honor.

5           MS. SALMON: Elisa Salmon for Mr. Holcomb,  
6 Your Honor.

7           MS. SANDLING: Kelly Sandling for the  
8 government.

9           MR. DODSON: Robert Dodson for the  
10 government.

11          THE COURT: All right. Off the record.

12          (The foregoing concluded at 10:39 a.m.)

13          (Pause in proceedings to wait for the jury  
14 panel to enter the courtroom. Voir dire commenced at  
15 10:52 a.m. and concluded at 1:58 p.m.)

16          (The following commenced at 1:58 p.m.)

17          THE COURT: All right. On the record,  
18 outside the presence of the jury. Is there anything we  
19 need to take up regarding preliminary instructions or  
20 opening statements before the Court proceeds?

21          MS. SANDLING: Your Honor, regarding -- just  
22 after the opening, I wanted to inform Your Honor that  
23 the government intends to call as witness number 1  
24 Jeremy Scheetz, and then witness number 2 will be Agent  
25 Babits. I know Your Honor wanted to do a voir dire, so

1 I just wanted to alert Your Honor as to that.

2 THE COURT: So are those both the expert  
3 witnesses? I'll ask the parties, in terms of proceeding  
4 expeditiously with the jury's time, is it better -- I  
5 think voir dire was at the request of defense counsel.  
6 Do you want -- should we just voir dire them  
7 successively, make our record, then bring the jury in  
8 and call them in succession? Or do you want to do them  
9 individually, one after the -- send the jury back out  
10 and then bring them back? The Court's preference would  
11 be to do both of them, make our record, and then have  
12 them proceed in front of the jury without pulling the  
13 jury in and out. I don't think it makes a difference.

14 MR. CHETSON: Yes, Your Honor. I would ask  
15 to voir dire them both. I think that would be my  
16 preference. I don't know what Ms. Salmon's preference  
17 is.

18 MS. SALMON: Your Honor, I'm fine with them  
19 being voir dired as, sort of, one proceeding.

20 THE COURT: When we return, we'll return,  
21 we'll do the voir dire. Are the witnesses on standby?  
22 Can they be brought in before we bring the jury back  
23 from lunch?

24 MS. SANDLING: Yes, Your Honor. They're on  
25 the third floor.

1           THE COURT: All right. We'll bring the  
2 witnesses in. We'll proceed to the voir dire. We'll  
3 put that on our record. Then we'll bring the jury back  
4 in, instruct, and open.

5           MS. SANDLING: Your Honor, the government  
6 does have one other concern regarding opening in that  
7 the government would be making an oral motion in limine  
8 at this time to prevent Elisa Salmon from referring to  
9 any statement of Mr. Baker during her opening in this  
10 case. We've had some discussions with Ms. Salmon  
11 regarding -- she has apparently prepared a transcript of  
12 a statement that Mr. Baker made on the December 20th  
13 proffer. The government believes that any mention of  
14 that statement would be hearsay because Mr. Baker is not  
15 Ms. Salmon's party opponent. Further, the government  
16 believes that there would be a Bruton issue should  
17 Ms. Salmon attempt to elicit or bring up during opening  
18 or any cross-examination of witnesses in this case a  
19 statement of Mr. Baker because of the Bruton issue.

20           THE COURT: I'll hear from you, Ms. Salmon.

21           MS. SALMON: Your Honor, I don't intend to  
22 make any mention of Mr. Baker or any -- Mr. Baker, of  
23 course, but not of any statement that he has made to law  
24 enforcement or otherwise. I'm very aware of the Bruton  
25 issue. I do not intend to raise that in my opening

1 statement.

2 Right now in my cross-examination forecast,  
3 I also don't have any expectation that that's going to  
4 be a theme or recurring issue in any cross-examination  
5 of any government witness, of course reserving if the  
6 door is opened or something should happen. But I would  
7 ask to approach Your Honor before anything like that  
8 arises because of the potential Sixth Amendment and  
9 Bruton issues that would raise.

10 THE COURT: I will tell you the Court's very  
11 concerned about a Bruton issue. I think this was --  
12 there was no motion to sever in this case. There was no  
13 discussion of trying these individuals separately which  
14 would have the potential of forcing a choice of who goes  
15 first, but would obviate the Sixth Amendment  
16 confrontation right. It sounds like Ms. Salmon's  
17 statements render the government's motion unopposed, so  
18 I'll grant the motion in limine regarding opening and  
19 will reserve for bench conference anything that appears  
20 to be in approach to his statements at the time.

21 MS. SANDLING: Thank you, Your Honor.

22 THE COURT: All right. Thank you.

23 MS. SALMON: And, Your Honor, also just to  
24 clarify on the record, I do not have an exhibit or any  
25 proposed exhibit, transcript of any proffer of

1 Mr. Baker. I'm aware of the Court's sealed order in  
2 that respect, and I do not intend to offer any sort of  
3 transcript of any interview of Mr. Baker. Thank you,  
4 sir.

5 THE COURT: All right. Thank you,  
6 Ms. Salmon.

7 All right. With that, I will send the  
8 parties to lunch, and we will come back prepared to  
9 proceed with the voir dire.

10 (Proceedings concluded at 2:02 p.m.)  
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18 C E R T I F I C A T E  
19

20 I certify that the foregoing is a correct  
21 transcript from the record of proceedings in the  
22 above-entitled matter.  
23

24 /s/Risa A. Kramer

6/5/2023

25 Risa A. Kramer, RMR, CRR

Date